

town, or any subdivision or district within this State; providing for the sale of such bonds in cases of emergency for less than their par value, but at not less than the commercial market value thereof at the time of such sale, etc."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed.

WATTS, Chairman.

FIFTEENTH DAY.

Senate Chamber,
Austin, Texas,
Friday, August 5, 1921.

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem. Bailey.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Hertzberg.
Baugh.	Lewis.
Bledsoe.	McMillin
Buchanan.	Page.
Burkett.	Richards.
Clark.	Rogers.
Cousins.	Suiter.
Darwin.	Watts.
Davidson.	Williams.
Doyle.	Willis.
Dudley.	Witt.
Fairchild.	Wood.
Floyd.	Woods.
Hall.	

Absent.

Parr.

Absent—Excused.

Carlock.	Murphy.
Dorough.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Darwin.

Excused.

Senator Murphy, on account of important business, on motion of Senator Hall.

Senator Richards for non-attendance on yesterday, on motion of Senator Hall.

Bills and Resolutions.

By Senator Murphy:

S. B. No. 70, A bill to be entitled "An Act to amend Section 8 of S. B. 312, Chapter 16, of the Local and Special Acts of the Regular Session of the Thirty-fourth Legislature creating the LaPorte Independent School District, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Burkett, by request:

S. B. No. 71, A bill to be entitled "An Act to amend Chapter 41, General Laws passed at the First Called Session of the Thirty-fifth Legislature establishing a system of State Bonded Warehouses, by adding thereto Section 8a, 8b, 8c, 8d, 8e and 8f, providing for the establishing and regulating of public cotton gins, authorizing the Commissioner of Markets and Warehouses to regulate the fees to be charged by public ginner, fixing a lien on cotton in favor of the ginner for ginning fees; and declaring an emergency."

Read first time and referred to Committee on Agriculture.

By Senator Davidson, by request:

S. B. No. 72, A bill to be entitled "An Act to amend Section 1, of Chapter 81 of the Second Called Session of the Thirty-sixth Legislature, approved July 31st, 1919, relating to the relinquishment of fifteen sixteenths of oil and gas in public free school and asylum land to the owner of the soil, and repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on Public Lands.

By Senators Williams, Hertzberg, McMillin, Lewis:

S. B. No. 73, A bill to be entitled "An Act to amend Chapter 1 of Title 104, Revised Civil Statutes of Texas, adopted in 1911, by inserting immediately following Article 6195 a new article to be known as Article 6195a which shall provide in substance, in addition to the method of removing members of the Board of Prison Commissioners referred to in Article 6195 hereto, they may likewise be removed for the causes set forth in Article 6195 by suit brought

by the Attorney General in the name of the State on the relation of the Governor; such suit to be brought in the district Court of Walker County or in the county of residence of the defendant, for which purpose venue and jurisdiction is hereby conferred. It shall be the duty of the Attorney General to bring such action when directed by the Governor to do so provided the Governor accompanies such direction with charges and evidence showing that the defendant is subject to removal under Article 6195. The suit shall be a civil action to be tried as other civil cases with the right of appeal and review as in other civil cases. The courts shall have authority to issue all necessary writs to effectuate any judgment of removal rendered hereunder. Such suits for removal shall have precedence of all other cases and in appellate tribunals. The procedure of removal herein provided shall be cumulative of all other statutes relating to the subject of removal by impeachment; and declaring an emergency."

Read first time and referred to Committee on Penitentiaries.

By Senator Richards, by request:

S. B. No. 74, A bill to be entitled "An Act to amend Article 64 of Chapter 73, General Laws of the first and second called sessions of the Thirty-sixth Legislature; relating to the protection of fish, etc., and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senators Hertzberg, Williams and McMillin:

S. B. No. 75, A bill to be entitled "An Act to re-locate the Penitentiary of Texas, and to establish and erect a central prison system in the State of Texas; providing for the sale of the main penitentiary at Huntsville, and all the prison farms owned by said State, creating a special commission to select proper site for same, and to provide a plan for the sale of the main penitentiary and all farms belonging to the system; defining the powers of said Commission, and declaring an emergency."

Read first time and referred to Committee on State Penitentiaries.

By Senator Dudley:

S. B. No. 76, A bill to be entitled "An Act creating the Sheffield Independent School District in Pecos County, etc., and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

Reasons for Vote on S. B. No. 12.

Mr. President: I vote "no" on the final passage of committee substitute for Senate Bill No. 12 for the following reasons:

1. The title of the substitute reads: "who wilfully or corruptly fails or refuses to discharge the duties of his office as required by law."

Article 6051-a uses the same language. But the next Article reads: "The affidavit shall state specifically in which manner such officer is not enforcing the laws of this State as required by law and by the oath of office." Again if any officer "shall wilfully or corruptly fail or refuse to enforce the aforementioned misdemeanors he shall be removed from office as provided in this Act."

2. I think the district attorney, instead of the Attorney General, should make the investigation provided for by the bill, as the tax payers will be burdened with the expense bill of the latter officials, for it will likely cost from twenty-five to one hundred dollars for the Attorney General to make the investigation, owing to what part of the State he may have to go.

3. The suspended derelict should not be paid any of the emoluments of his office until the case is finally disposed of, then if he is acquitted, he should have the pay of his office for the entire time of his suspension; should he be removed, he should not be paid anything.

I wanted the bill to read: "If any district attorney, county attorney, or county or precinct peace officer shall fail", etc. The county treasurer of Freestone and Brazos are females, as is also the district clerk of Freestone; the county superintendents of education of Limestone and Robertson are ladies also. Those holding these offices and that of county clerk can in no manner have anything to do with the enforcement of the law. If the Act would read like the title,

that if they wilfully or corruptly failed to discharge the duties of the office, it would be all right, or if the title and the first Article had used the word enforce instead of discharge, that would have been all right; but as printed the word enforce is substituted for the word discharge. Now, female officers are like the poor, we will have them with us always, and I would not jeopard them by placing them in the same class with peace officers.

The definition of the words "discharge" and "enforce" are not interchangeable.

DOYLE.

House Bill No. 8.

Senator Bledsoe here moved that House Bill No. 8, the senatorial redistricting bill be made a special order for Monday morning, following the conclusion of the morning call.

Senator Parr moved, as a substitute, that the bill be made a special order for Tuesday morning, following the conclusion of the morning call.

The substitute motion was adopted.

Senator Bledsoe moved to reconsider the vote by which the substitute motion was adopted.

The motion to reconsider was lost by the following vote:

Yeas—11.

Baugh.	McMillin
Bledsoe.	Page.
Burkett.	Watts.
Darwin.	Williams.
Dudley.	Witt.
Hertzberg.	

Nays—16.

Bailey.	Lewis.
Buchanan.	Parr.
Clark.	Richards.
Davidson.	Rogers.
Doyle.	Suiter.
Fairchild.	Willis.
Floyd.	Wood.
Hall.	Woods.

Absent.

Cousins.

Absent—Excused.

Carlock.	Murphy.
Dorough.	

Simple Resolution No. 27.

By Senator Burkett:

Whereas, By Senate Concurrent Resolution No. 6, an appropriation for \$5,000 was made for the State Ranger force, and

Whereas, Same was passed hurriedly and without the Senate having before it the necessary information regarding the expenditures, and

Whereas, Said resolution has been sent to the House of Representatives; therefore, be it

Resolved, That the Senate do recall same from the House of Representatives for further consideration.

The resolution was read and was lost by the following vote:

Yeas—11.

Bailey.	Richards.
Burkett.	Suiter.
Davidson.	Willis.
Doyle.	Witt.
Floyd.	Woods.
Parr.	

Nays—15.

Baugh.	Lewis.
Bledsoe.	McMillin
Buchanan.	Page.
Clark.	Rogers.
Darwin.	Watts.
Dudley.	Williams.
Hall.	Wood.
Hertzberg.	

Absent.

Cousins.	Fairchild.
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Absent—Excused.

Carlock.	Murphy.
Dorough.	

Simple Resolution No. 28.

By Senator Floyd:

Whereas, There is now in the city of Austin some eighty boy scouts from the town of Sulphur Springs who are on a hike to San Antonio and other Texas points; therefore, be it

Resolved, That these Boy Scouts be invited to appear upon the floor of the Senate and repeat their "oath of allegiance to the flag."

The resolution was read and adopted.

At 11:40 o'clock a. m., the Boy Scouts organization above referred to appeared at the bar of the Senate,

and, being introduced by the Chair, carried out their program.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Aug. 5, 1921.

Hon. Lynch Davidson, President of
the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 21, A bill to be entitled "An Act to amend Chapter 145, General Laws of the State of Texas passed by the Thirty-sixth Legislature at its Regular Session, which chapter was 'An Act to amend Chapter 1, of Title 44, of the Revised Civil Statutes of the State of Texas, 1911, and to provide the manner in which State funds shall be kept and deposited; to define the State Depository Board and its powers, and what banks may become State Depositories, and the manner and means of selecting and for the qualification of such State depositories, providing for the distribution of such State funds among such depositories, repealing all laws in conflict, and declaring an emergency'; the effect of this amendment being to add to said chapter a new article to be known as Article 2435b, providing in substance that during the existence of any general financial or industrial depression prior to March 1, 1923, if it should be found by the State Depository Board that any State depository is not able to pay the drafts or demands made upon it by the State Treasurer in the ordinary operation of the State Depository Law without closing its doors and ceasing to exist as a going concern, though otherwise solvent, then the State Depository Board shall have the discretion and authority to extend the time for payment of the funds on deposit in such State depository into the Treasury from time to time; provided, however, that such extension shall not be made unless and until such depository and the sureties, if any, on its depository bond, execute a contract of extension or give bond or securities as in the first instance for such period of time as the State Depository Board may designate; the State depositories to which extension of time are granted

under this Act shall not receive any additional funds on deposit from the State Treasury until the demand of the State Treasurer as to previous existing funds have been met; and declaring an emergency."

Respectfully submitted,

CARL PHINNEY,

Chief Clerk House of Representatives.

Senate Bill No. 47.

By unanimous consent, secured by Senator Watts, the Chair laid before the Senate, on second reading,

S. B. No. 47, A bill to be entitled "An Act to authorize the State Fire Insurance Commission to transfer all unexpended balances in the various items of the appropriation made by the Third Called Session of the Thirty-sixth Legislature, Chapter 51, page 93 of the printed Acts, to the first item designated 'stationery and printing supplies' so that such unexpended balance in the various items contained in the appropriation may be utilized for expenditures for securing stationery and printing supplies."

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Watts, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 47 put on its third reading and final passage by the following vote:

Yeas—26.

Bailey.	Lewis.
Baugh.	McMillin
Bledsoe.	Page.
Buchanan.	Parr.
Burkett.	Richards.
Clark.	Rogers.
Cousins.	Suiter.
Darwin.	Watts.
Davidson.	Williams.
Doyle.	Willis.
Dudley.	Wood.
Hall.	Woods.
Hertzberg.	Witt.

Absent.

Fairchild.	Floyd.
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Absent—Excused.

Carlock.	Murphy.
Dorough.	

The bill was read third time and passed finally by the following vote:

Yeas—27.

Bailey.	Lewis.
Baugh.	McMillin
Bledsoe.	Page.
Buchanan.	Parr.
Burkett.	Richards.
Clark.	Rogers.
Cousins.	Suiter.
Darwin.	Watts.
Davidson.	Williams.
Doyle.	Willis.
Dudley.	Witt.
Floyd.	Wood.
Hall.	Woods.
Hertzberg.	

Absent.

Fairchild.

Absent—Excused.

Carlock. Murphy.
Dorough.

Morning call concluded.

Senate Bill No. 20.

The Chair laid before the Senate, on second reading and special for this hour.

S. B. No. 20, A bill to be entitled "An Act to amend Chapter 5, Title 8 of the Code of Criminal Procedure of the State of Texas of 1911, so as to prevent the reversal of criminal cases by the Court of Criminal Appeals upon technicalities and irregularities and declaring an emergency."

There being a favorable majority committee report, and an adverse minority committee report,

Senator Witt moved to adopt the majority committee report, and

Senator Hall moved, as a substitute, that the minority committee report be adopted.

Senator Witt moved to table the substitute motion, which motion to table was adopted by the following vote:

Yeas—18.

Baugh.	Lewis.
Buchanan.	McMillin
Burkett.	Rogers.
Clark.	Watts.
Cousins.	Williams.
Darwin.	Willis.
Davidson.	Witt.
Doyle.	Wood.
Dudley.	Woods.

Nays—7.

Bailey.	Page.
Bledsoe.	Parr.
Fairchild.	Richards.
Hall.	

Absent.

Floyd.

Absent—Excused.

Carlock.

(Pairs Recorded.)

Senator Hertzberg (present), who would vote "nay"; with Senator Dorough (absent), who would vote "yea."

Senator Suiter (present), who would vote "yea"; with Senator Murphy (absent), who would vote "nay."

Action recurred on the motion to adopt the majority committee report, and the same was adopted.

Action recurred on the engrossment of the bill, and,

Senator Wood offered the following amendment which was read and adopted:

Amend S. B. No. 20, by adding Article 743b, which Article 743b shall read as follows:

"Article 743b. No appeal shall be dismissed, until the appellant has had an opportunity to perfect his appeal, and any material error shown in the record, whether properly presented or not, or whether objected to or exception taken at the time committed or not, shall be considered and passed on by the Court of Criminal Appeals upon a review of said cause."

Senator Suiter offered the following amendment which was read and adopted:

Amend S. B. No. 20 by striking out Section 2 and substituting the following:

"Section 2. The fact that in many cases appealed to the Court of Criminal Appeals, the judgment of conviction is reversed for errors which in no way deprive the appellant of any substantial right, the further fact that such reversals give encouragement to the criminal and those criminally inclined, and further lessens the respect which the wholesome citizen should have for the certain

just and substantial enforcement of the law and its administration in every case, and the further fact that under the rules of procedure and practice in Criminal cases which now subsist, it requires great technical skill upon the part of prosecuting attorneys and the trial judges to conduct any criminal trial so as to safeguard the administration of the criminal law difficult and complex, and whereby the State in criminal prosecutions has to discharge many burdens before it is entitled under the law to a conviction and whereas reversals for technical errors which do not and could not effect the result of the case or deprive the defendant of any just and substantial right, imposes upon the State unnecessary and unjust burden and hampers the speedy and just enforcement of the substantial criminal laws of the State creates an emergency requiring that the constitutional rule providing that bills shall be read on three several days in each house shall be suspended, and said rule is so suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Senator Bledsoe offered the following amendment:

Amend S. B. No. 20, as printed, page 1, line 21, by adding at the end thereof the following:

"Provided that the error herein mentioned shall not include such error or irregularity as is a violation of the expressed provision of a statute of this State."

Pending further consideration, Senator Page, at 12:05 o'clock p. m., moved that the Senate recess until 3 o'clock today, which motion was lost by the following vote:

Yeas—11.

Bailey.	Page.
Bledsoe.	Richards.
Darwin.	Rogers.
Fairchild.	Watts.
Hall.	Wood.
Hertzberg.	

Nays—17.

Baugh.	Doyle.
Buchanan.	Dudley.
Burkett.	Floyd.
Clark.	Lewis.
Cousins.	McMillin
Davidson.	Parr.

Suiter.
Williams.
Willis.

Witt.
Woods.

Absent—Excused.

Carlock.
Dorough.

Murphy.

Senator Page moved that the Senate adjourn until 10:00 o'clock tomorrow morning, which motion was lost by the following vote:

Yeas—8.

Bailey.
Bledsoe.
Fairchild.
Hall.

Page.
Parr.
Richards.
Watts.

Nays—19

Baugh.
Buchanan.
Burkett.
Clark.
Cousins.
Darwin.
Doyle.
Dudley.
Floyd.
Hertzberg.

Lewis.
McMillin
Rogers.
Suiter.
Williams.
Willis.
Witt.
Wood.
Woods.

Absent.

Davidson.

Absent—Excused.

Carlock.
Dorough.

Murphy.

Senator Page moved that the further consideration of the bill and amendment be postponed until tomorrow afternoon at 2:30 o'clock.

Recess.

Senator Bledsoe, at 12:10 o'clock p. m., moved that the Senate recess until 2:30 o'clock p. m. today, which motion was adopted

After Recess.

The Senate was called to order by President Pro Tem. Bailey.

Senate Bill No. 20.

Action recurred on S. B. No. 20, the question being on the motion by Senator Witt to table the amendment by Senator Bledsoe.

The motion to table was adopted by the following vote:

Yeas—13.

Bailey.	Watts.
Doyle.	Williams.
Dudley.	Willis.
Floyd.	Witt.
Lewis.	Wood.
McMillin	Woods.
Rogers.	

Nays—4

Baugh.	Darwin.
Bledsoe.	Parr.

Absent.

Burkett.	Fairchild.
Cousins.	Richards.
Davidson.	

Absent—Excused.

Carlock.

(Pairs Recorded.)

Senator Hertzberg (present), who would vote "nay"; with Senator Dorrough (absent), who would vote "yea."

Senator Page (present), who would vote "nay"; with Senator Clark (absent), who would vote "yea."

Senator Suiter (present), who would vote "yea"; with Senator Murphy (absent), who would vote "nay."

Senator Hall (present), who would vote "nay"; with Senator Buchanan (absent), who would vote "yea."

Action recurred on the engrossment of the bill and the same was passed to engrossment by the following vote:

Yeas—15.

Baugh.	Rogers.
Cousins.	Watts.
Davidson.	Williams.
Doyle.	Willis.
Dudley.	Witt.
Floyd.	Wood.
Lewis.	Woods.
McMillin	

Yeas—4.

Bailey.	Parr.
Bledsoe.	Richards.

Absent.

Fairchild.

Absent—Excused.

Carlock.

(Pairs Recorded.)

Senator Darwin (present), who would vote "nay"; with Senator Burkett (absent), who would vote "yea."

Senator Hertzberg (present), who would vote "nay"; with Senator Dorrough (absent), who would vote "yea."

Senator Hall (present), who would vote "nay"; with Senator Buchanan (absent), who would vote "yea."

Senator Page (present), who would vote "nay"; with Senator Clark (absent), who would vote "yea."

Senator Suiter (present), who would vote "yea"; with Senator Murphy (absent), who would vote "nay."

Senator Hall moved to reconsider the vote by which the bill was ordered engrossed, but was held out of order by reason that he voted on the losing side.

Senator Cousins, voting with the prevailing side, moved to reconsider the vote by which the bill was ordered engrossed.

Senator Witt moved to table the motion to reconsider which motion to table was lost by the following vote:

Yeas—10.

Baugh.	Rogers.
Buchanan.	Watts.
Davidson.	Willis.
Doyle.	Witt.
Dudley.	Woods.

Nays—11.

Bailey.	McMillin.
Bledsoe.	Parr.
Cousins.	Richards.
Hall.	Williams.
Hertzberg.	Wood.
Lewis.	

Absent.

Fairchild.	Floyd.
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Absent—Excused.

Carlock. Dorough.

(Pairs Recorded.)

Senator Darwin (present), who would vote "nay"; with Senator Burkett (absent), who would vote "yea."

Senator Page (present), who would vote "nay"; with Senator Clark (absent), who would vote "yea."

Senator Suiter (present), who would vote "yea"; with Senator Murphy (absent), who would vote "nay."

The motion to reconsider was then lost by the following vote:

Yeas—9.

Bailey.	Hall.
Bledsoe.	Parr.
Cousins.	Richards.
Fairchild.	Wood.
Floyd.	

Nays—13.

Baugh.	Rogers.
Buchanan.	Watts.
Davidson.	Williams.
Doyle.	Willis.
Dudley.	Witt.
Lewis.	Woods.
McMillin	

Absent—Excused.

Carlock.

(Pairs Recorded.)

Senator Darwin (present), who would vote "yea"; with Senator Burkett (absent), who would vote "nay."

Senator Hertzberg (present), who would vote "yea"; with Senator Dorough (absent), who would vote "nay."

Senator Page (present), who would vote "yea"; with Senator Clark (absent), who would vote "nay."

Senator Suiter (present), who would vote "nay"; with Senator Murphy (absent) who would vote "yea."

Senator Page moved to rescind the

vote by which the bill was ordered engrossed, which motion to rescind was lost by the following vote:

Yeas—8.

Bailey.	Hall.
Bledsoe.	Parr.
Cousins.	Richards.
Fairchild.	Wood.

Nays—14.

Baugh.	McMillin.
Buchanan.	Rogers.
Davidson.	Watts.
Doyle.	Williams.
Dudley.	Willis.
Floyd.	Witt.
Lewis.	Woods.

Absent—Excused.

Carlock.

(Pairs Recorded.)

Senator Darwin (present), who would vote "yea"; with Senator Burkett (absent), who would vote "nay"

Senator Hertzberg (present), who would vote "yea"; with Senator Dorough (absent), who would vote "nay."

Senator Page (present), who would vote "yea"; with Senator Clark (absent), who would vote "nay."

Senator Suiter (present), who would vote "nay"; with Senator Murphy (absent), who would vote "yea."

Senate Bill No. 15.

The Chair laid before the Senate, on second reading and regular order,

S. B. No. 15, A bill to be entitled "An Act to prevent the introduction into the State of Texas of the destructive cotton pest, *Pectinophora gossypiella*, Sanders, known as and hereinafter referred to as pink boll-worm and to control and eradicate such insects when and where discovered in this State; etc."

On motion of Senator Darwin the bill was laid on the table subject to call.

Senate Bill No. 54.

By unanimous consent, secured by Senator Darwin, the Chair laid before the Senate on second reading,

S. B. No. 54, A bill to be entitled "An Act to amend Sections 4 and 14, Chapter 44, of the Acts of the First Called Session of the Thirty-fifth Legislature, in such a way as to make it possible for the State Text Book Commission to renew contracts wherever advantageous to the interest of the State; to grant to the said Commission the power to take such action in the adoption of text books for the public schools as may be necessary in the interests of economy and of an efficient school system, and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Darwin, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 54 put on its third reading and final passage by the following vote:

Yeas—24.

Bailey.	McMillin
Baugh.	Page.
Bledsoe.	Parr.
Buchanan.	Richards.
Cousins.	Rogers.
Darwin.	Suiter.
Davidson.	Watts.
Doyle.	Williams.
Dudley.	Willis.
Floyd.	Witt.
Hall.	Wood.
Hertzberg.	Woods.

Absent.

Burkett.	Fairchild.
Clark.	Lewis.

Absent—Excused.

Carlock.	Murphy.
Dorough.	

The bill was read third time and passed by the following vote:

Yeas—24.

Bailey.	Davidson.
Baugh.	Doyle.
Bledsoe.	Dudley.
Buchanan.	Floyd.
Cousins.	Hertzberg.
Darwin.	Lewis.

McMillin
Page.
Parr.
Richards.
Rogers.
Suiter.

Watts.
Williams.
Willis.
Witt.
Wood.
Woods.

Absent.

Burkett.	Fairchild.
Clark.	Hall.

Absent—Excused.

Carlock.	Murphy.
Dorough.	

Senate Bill No. 16.

The Chair laid before the Senate, as regular order.

S. B. No. 16, Known as the "Commercial Truck bill."

On motion of Senator Hertzberg, the bill was laid on the table subject to call.

Bills and Resolution Signed.

The Chair, President Pro Tem. Bailey, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills and resolution:

H. C. R. No. 14, Thanking citizens of Austin for entertainment.

H. B. No. 34, A bill to be entitled "An Act to amend Articles 4930 and 4935, Chapter 13, Title 17, of the Revised Civil Statutes of Texas, 1911, so as to provide that the deposits thereby required or therein referred to shall be for the benefit of the holders of all the obligations of the depositor wheresoever incurred, and to repeal all laws in conflict herewith, and declaring an emergency."

S. B. No. 21, A bill to be entitled "An Act to amend Chapter 145, General Laws of the State of Texas passed by the Thirty-sixth Legislature at its Regular Session, which chapter was 'An Act to amend Chapter 1, of Title 44, of the Revised Civil Statutes of the State of Texas, 1911, and to provide the manner in which State funds shall be kept and deposited; to define the State Depository Board and its powers, and what banks may become State Depositories, etc.'"

Adjournment.

On motion of Senator Richards the Senate, at 3:40 o'clock p. m., adjourned until 10:00 o'clock tomorrow morning.

APPENDIX.**Committee Reports.**

Committee Room,
Austin, Texas, Aug. 5, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Public Printing, to whom was referred

S. B. No. 41, A bill to be entitled "An Act to fix and establish a legal rate for the publication of all proclamations, advertising, or notices of all kinds required by law to be published in newspapers in this State for the State, counties or municipalities, or in any legal proceeding, providing for the filing by newspapers with the Board of Control at Austin, Texas, of a sworn statement of their regular rate for advertising to be open to public inspection, repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate, with the recommendation that it do pass and be not printed, but be printed in the Journal.

ROGERS, Chairman.

Following is the bill in full:

By Floyd. S. B. No. 41.

A BILL
to be entitled

An Act to fix and establish a legal rate for the publication of all proclamations, advertising, or notices of all kinds required by law to be published in newspapers in this State for the State, counties or municipalities, or in any legal proceeding, providing for the filing by newspapers with the Board of Control at Austin, Texas, of a sworn statement of their regular rate for advertising to be open to public inspection, repealing all laws or parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That hereafter the price to be paid newspapers for the publication of proclamations, advertising, or notices of all kinds required by law to be published in newspapers of this State for the State, counties or municipalities, or in any legal proceeding, shall be two cents per word for the first insertion and one cent per word for each subsequent insertion for the same matter, provided that no newspaper shall charge for any proclamation, advertising or notice, herein provided for, a greater charge than its regular rate for advertising.

Sec. 2. Every newspaper in the State of Texas, which shall publish any proclamation or notice provided for in Section 1 of this Act, shall file with the Board of Control at Austin, Texas, its regular advertising rate, sworn to by the editor, owner or publisher or some executive officer of the corporation, if such publication is owned by a corporation, and such affidavit shall be open to public inspection.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 4. The fact that there is now no law fixing the price for publication of notices required to be published by law and the great necessity for some uniform price for the publication of such notices, and the further fact that this being a Special Session and its term limited and the calendar already crowded, creates an emergency and imperative public necessity, demanding the suspension of the constitutional rule requiring bills to be read on three several days be suspended, and that said rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, August 5, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Penitentiaries, to whom was referred Senate Bill No. 73,

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass, and

that it be not printed, but printed in the Journal.

WILLIAMS, Chairman.

Following is the bill in full:

By Williams, Hertz- S. B. No. 73.
berg, McMillin, Lewis.

A BILL
to be entitled

An Act to amend Chapter 1 of Title 104, Revised Civil Statutes of Texas, adopted in 1911, by inserting immediately following Article 6195, a new article to be known as Article 6195a which shall provide in substance; in addition to the method of removing members of the Board of Prison Commissioners referred to in Article 6195 hereto, they may likewise be removed for the causes set forth in Article 6195 by suit brought by the Attorney General in the name of the State on the relation of the Governor; such suit to be brought in the District Court of Walker County or in the county of residence of the defendant, for which purpose venue and jurisdiction is hereby conferred. It shall be the duty of the Attorney General to bring such action when directed by the Governor to do so provided the Governor accompanies such direction with charges and evidence showing that the defendant is subject to removal under Article 6195. The suit shall be a civil action to be tried as other civil cases with the right of appeal and review as in other civil cases. The courts shall have authority to issue all necessary writs to effectuate any judgment of removal rendered hereunder. Such suits for removal shall have precedence of all other cases and in appellate tribunals. The procedure of removal herein provided shall be cumulative of all other statutes relating to the subject of removal or impeachment; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That title 104, Chapter 1, of the Revised Civil Statutes of the State of Texas adopted in 1911 be amended by inserting therein immediately following Article

6195 a new article to be known as Article 6195a and to read as follows, to-wit:

Article 6195a. In addition to the method of removing members of the Board of Prison Commissioners referred to in Article 6195 hereof, they may likewise be removed for the causes set forth in Article 6195 by suit brought by the Attorney General in the name of the State of Texas on the relation of the Governor; such suit to be brought in the District Court of Walker County or in the county of residence of the defendant, for which purpose venue and jurisdiction is hereby conferred. It shall be the duty of the Attorney General to bring such action when directed by the Governor to do so provided the Governor accompanies such direction with charges and evidence showing the defendant is subject to removal under Article 6195. The suit shall be a civil action to be tried as other civil cases with the right of appeal and review as in other civil cases. The courts shall have authority to issue all necessary writs to effectuate any judgment of removal rendered hereunder. Such suits for removal shall have precedence over all other cases (in trial) and in appellate tribunals. The procedure of removal herein provided shall be cumulative of all other statutes relating to the subject of removal or impeachment.

Sec. 2. The importance of this legislation and the crowded condition of the legislative calendar create an emergency and an imperative public necessity which requires that the constitutional rule providing that bills shall be read on three several days shall be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage and it is so enacted.

Committee Room,
Austin, Texas, Aug. 3, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Penitentiaries, to whom was referred S. B. No. 38,

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass,

and that it be not printed, but be printed in the Journal.

WILLIAMS, Chairman.

Following is the bill in full:

By Hertzberg. S. B. No. 38.

A BILL
to be entitled

An Act to amend Article 1610, Title 15, Chapter 28, Penal Code of the State of Texas, relating to punishment for excessive whipping of refractory prisoners; prohibiting the use of chains in the penitentiary system of Texas, and limiting the use of the strap to certain offenses committed by prisoners, providing how same shall be applied; fixing the penalty; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1610, Title 15, Chapter 28, of the Penal Code of the State of Texas be hereby changed so as to hereafter read as follows:

Article 1610: The Penitentiary Commission may adopt such methods of punishment as may be necessary such punishment being always humane. Placing prisoners in stocks and chains shall be prohibited. Whipping, not exceeding twenty lashes, may be resorted to with prisoners for the following offenses: taking part in a mutiny, striking an official or employee of the penitentiary system, and striking another convict, except in self defense. The strap to be used must be of leather, not over two and one-half inches wide and twenty-four inches long and attached to a wooden handle, and such strap shall not be applied to the bare skin. No convict shall be whipped until same has been authorized by at least two members of the Prison Commission upon their written order, and such order so issued shall be executed only in the presence of the prison physician, and a sworn report shall be made by the officer executing such order to the Prison Commission, who shall keep a record of all such reports in a well bound book to be kept for that purpose, which shall be at all times open for public inspection; such reports

so to be made by such officer executing the order of the Prison Commission shall state the name of the convict whipped, the date of the whipping, the number of strokes administered, the size of the strap used, the time and place thereof, in whose presence the same was done, and the cause thereof. It shall further be the duty of the Prison Commission to make a semi-annual report of the whipping of convicts to the District Judge of the county where the whipping occurred, who shall report the same to the grand jury, who shall be authorized to make an investigation thereof if they deem advisable. The utmost care shall be used by the officer executing the order not to break the skin of the prisoner whipped. Whipping in any other manner, and under any circumstances other than herein set forth, is prohibited, and the striking of any convict, or the inflicting of bodily injury by any officer of the penitentiary system except in self defense shall be prohibited. Any person guilty of hanging a prisoner in stocks, or hanging any prisoner in chains, or whipping the prisoner with more lashes than provided for herein, or striking the prisoner, or inflicting bodily harm on the prisoner, except in self defense, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars, and imprisonment in the county jail not less than thirty days, nor more than one year. White and negro prisoners shall not be worked together when it can be avoided, and shall be kept separate when not at work.

Sec. 2. The fact that there is now no law in this State prohibiting the use of chains and limiting the use of the strap to the offenses of mutiny, attack upon a prison official or employee, and attack upon another convict except in self defense, and the fact that convicts are being hung in chains, and being whipped for other offenses than those enumerated herein, creates an emergency and imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and this Act shall

take effect thirty days after its passage, and it is so enacted.

Committee Room

Austin, Texas, Aug. 5, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Public Lands and Land Office, have had under consideration S. B. No. 72.

Beg leave to report the same back to the Senate with the recommendation that it do pass and be printed in the Journal.

DAVIDSON, Chairman.

Following is the bill in full:

By Davidson. S. B. No. 72.

A BILL
to be entitled

An Act to amend Section 1 of Chapter 81 of the Second Called Session of the Thirty-sixth Legislature, approved July 31, 1919, relating to the relinquishment of fifteen-sixteenths of the oil and gas in public free school and asylum land to the owner of the soil and repealing all laws and parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Section 1 of Chapter 81, of the Second Called Session of the Thirty-sixth Legislature shall be so amended as to hereafter read as follows:

Section 1. To promote the active co-operation of the owner of the soil and to facilitate the development of its oil and gas resources the State hereby constitutes the owner of the soil its agent for the purposes herein named, and in consideration therefor, relinquishes to and vests in the owner of the soil an undivided fifteen-sixteenths of all oil and gas and the value of the same that may be upon or within the surveyed and unsurveyed public free school land and the asylum lands and portions of such surveys that have heretofore been sold with a mineral classification or mineral reservation and that which may hereafter be sold with a mineral classification or mineral reservation, subject to the terms and conditions of this Act; and the remaining undivided portion of said oil and gas

and the value of same is hereby reserved for the use and benefit of the public free school fund and the several asylum funds; provided, the relinquishment herein relating to unsurveyed school land shall not in any manner apply to nor affect any oil and gas permit or lease heretofore issued on any unsurveyed school land, but said relinquishment shall become effective as to such land and the oil and gas therein when the existing permit or lease shall be terminated according to law.

Sec. 2. The importance of the legislation proposed and the short term of this Special Session creates an emergency and an imperative public necessity exists that the constitutional rule requiring bills to be read on three separate days in each house should be suspended and that this bill be placed upon third reading and final passage and that it take effect from and after its passage, and it is so enacted.

Senate Chamber.

Austin, Texas, Aug. 5, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. R. No. 16, the purpose of which is to permit the removal by Mrs. W. H. Huddle of the painting of Ex-Governor James Stephen Hogg from the Senate Chamber,

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do not pass but that the Committee Substitute do pass.

WOOD, Acting Chairman.

Following is the substitute in full:

Committee Substitute for Simple Resolution No. 16.

Whereas, Mrs. W. H. Huddle is the owner of the painting from life of Ex-Governor James Stephen Hogg, which is now placed on the walls of the Senate; and

Whereas, she is willing to sell said painting to the Senate; now, therefore, be it

Resolved, That the sum of \$500.00 be appropriated out of the contingent expense funds of the Senate for the purpose of buying said painting, and

that if the said Mrs. W. H. Huddle is not willing to accept said sum for said painting she is granted permission to remove the said painting from the Senate Chamber.

Senate Chamber,
Austin, Texas, Aug. 5, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 12 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Aug. 5, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 18 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Petitions and Memorials.

Senator Buchanan offered and had read telegrams from J. C. Mitchell, Rev. D. Howard Dow, E. B. Hauk, W. B. Blami, J. B. Campbell, W. R. Butler, citizens of Temple, urging support of Optometry Bill.

The Chair, Senator Bailey, offered and had read a telegram from Junior Chamber of Commerce of Dallas, opposing any reduction in salaries of faculty of State University, and commending action of Senator Willis in voting against any effort to so reduce salaries.

Senator Floyd sent up and had read a petition numerous signed by Clarksville citizens, urging four million dollars appropriation for rural schools.

This was referred to Committee on Educational Affairs.

SIXTEENTH DAY.

Senate Chamber,
Austin, Texas,
Saturday, August 6, 1921.

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem. Bailey.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Lewis.
Baugh.	McMillin.
Bledsoe.	Page.
Cousins.	Parr.
Darwin.	Rogers.
Davidson.	Suiter.
Dorough.	Watts.
Doyle.	Williams.
Dudley.	Willis.
Floyd.	Witt.
Hall.	Wood.
Hertzberg.	Woods.

Absent.

Buchanan.	Fairchild.
Burkett.	Richards.

Absent—Excused.

Carlock.	Murphy.
Clark.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with, on motion of Senator Watts.

See Appendix for Committee Reports and Petitions and Memorials.

Excused.

Senator Clark for today, on motion of Senator Woods.

Bills and Resolutions.

By Senator Richards:

S. B. No. 77, A bill to be entitled "An Act to prescribe the conditions upon which the purchaser or purchasers, and associates, if any, of the property and franchise of a street railroad company may become owners of its charter, or may organize a new corporation, and declaring an emergency."

Read first time and referred to Committee on Internal Improvements.

By Senator Page:

S. B. No. 78, A bill to be entitled "An Act making an appropriation to the Prison Commission of the State of Texas for operating expenses of said Prison Commission until September 1, 1922; providing for the return to the State Treasury of the amount used by said Prison Commission out of this appropriation; and declaring an emergency."

Read first time and referred to Committee on Finance.